

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

JOY R. WHIPPLE, M.D.,

Plaintiff,

v.

UNUM GROUP CORPORATION, d/b/a
Unum Life Insurance Company of America,

Defendant.

Case No.: 10-6076

COMPLAINT

Plaintiff Joy R. Whipple, M.D. ("Whipple"), for her cause of action against Defendant, alleges as follows:

PARTIES AND JURISDICTION

1. Plaintiff Whipple is a former employee of West River Anesthesiology Consultants, P.C. ("WRAC"), and is a citizen of Custer County, South Dakota.

2. Unum Group Corporation ("UNUM"), d/b/a Unum Life Insurance Company of America, issued a group disability insurance policy to WRAC during Whipple's employment there, which covered Whipple.

3. The policy is part of an ERISA plan.

4. Unum is a Delaware corporation registered to do business in the state of South Dakota.

5. Unum's principal place of business is located at 1 Fountain Square, Chattanooga, TN 37402.

6. The amount in controversy exceeds \$75,000, exclusive of interest and costs.

7. This Court has jurisdiction under 29 U.S.C. § 1132(a) and 28 U.S.C. § 1331, and diversity jurisdiction pursuant to 28 U.S. C. § 1332(a).

CAUSE OF ACTION – ERISA

8. At all pertinent times, Whipple has been disabled within the meaning of the policy.
9. Whipple is entitled to disability benefits under the policy.
10. Unum violated ERISA by wrongfully denying Whipple benefits under the policy.
11. Unum violated ERISA ignoring documentation in Dr. Whipple's medical records and her own statements that substantiate her disability.
12. Unum violated ERISA by dismissing Dr. Whipple's disability claim stating it is only based upon Dr. Whipple's "altered perception" and "self report[ing] of [her] perceived ability."
13. Whipple has exhausted her remedies under the policy.

WHEREFORE, PLAINTIFF PRAYS:

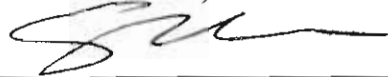
1. For recovery of benefits due under the terms of the plan, to enforce her rights under the terms of the plan, and to clarify her rights to future benefits under the terms of the plan;
2. For reasonable attorney fees and costs; and
3. For such other and further relief as the court deems just.

PLAINTIFF DEMANDS A JURY TRIAL UPON ALL ISSUES.

Dated: September 14, 2010.

GUNDERSON, PALMER, NELSON
& ASHMORE, LLP

By: _____



Shiloh M. MacNally
Attorney for Joy R. Whipple, M.D.
PO Box 8045
Rapid City SD 57709-8045
Telephone: (605)342-1078
Fax: (605)342-0480
Email: smacnally@gpnlaw.com